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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MARK MAYES,

11 Plaintiff,

12 v.

13 AMAZON.COM.DEDC LLC,

14 Defendant.

CASE NO. C18-176 MJP

ORDER DENYING PLAINTIFF'S  
MOTION FOR RELIEF FROM  
FINAL JUDGMENT

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16 THIS MATTER comes before the Court on Plaintiff's Motion to Amend Judgment (Dkt.  
17 No. 102). Having reviewed the Motion, the Response (Dkt. No. 103), the Reply (Dkt. No. 104),  
18 and all related papers, the Court DENIES Plaintiff's Motion.

19 **Background**

20 On February 5, 2018 Plaintiff, Mark Mayes brought claims against his former employer,  
21 Defendant Amazon.com.dedc LLC ("Amazon"), for race-based discrimination and retaliation.  
22 (Dkt. No. 1, Ex. 1.) On June 4, 2019, finding that Mr. Mayes lacked the evidence to support his  
23 claims, the Court granted Amazon's Motion for Summary Judgment and entered judgment in  
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1 favor of Amazon. (Dkt. Nos. 85, 86.) The Ninth Circuit affirmed the judgment, finding that Mr.  
2 Mayes' appeal was frivolous, and dismissing his claims. (Dkt. No. 105.) Mr. Mayes now brings  
3 a Motion for Relief from a Final Judgment under Federal Rule of Civil Procedure 60(b)(3), based  
4 on his allegations that Amazon committed fraud by failing to retain electronically stored  
5 information after Mr. Mayes filed a complaint with the Equal Employment Opportunity  
6 Commission. (Dkt. No. 104 at 1.) Specifically, Mr. Mayes contends that Amazon failed to  
7 retain video footage from the fulfillment center where he worked, which he alleges would have  
8 shown a number of the racist and retaliatory incidents at the heart of his lawsuit. (Dkt. No. 104  
9 at 2-3.)

10 Mr. Mayes previously raised this discovery argument in a Motion to Compel (Dkt. No.  
11 50), Cross Motion for Summary Judgment (Dkt. No. 71), and Motion for Reconsideration (Dkt.  
12 No. 91). In the Court's Order denying Mr. Mayes' Motion for Reconsideration, the Court noted:  
13 "Plaintiff's Motion for Summary Judgment dealt exclusively with discovery issues that were  
14 previously decided by the Court." (Dkt. No. 71 at 2.) Mr. Mayes also raised this issue in several  
15 other filings with this Court (Dkt. Nos. 92-95), and on appeal to the Ninth Circuit (Briefs for  
16 Appellant, Dkt. Nos. 23, 24, 25, 27, 28, 29, 30, and 32, Mayes v. Amazon.com.dedc LLC, No.  
17 19-35494 (9th Cir. 2020)).

### 18 Discussion

19 Under Rule 60(b)(3) the Court may relieve a party from a final judgment for fraud,  
20 misrepresentation, or misconduct by an opposing party. "To prevail, the moving party must  
21 prove by clear and convincing evidence that the verdict was obtained through fraud,  
22 misrepresentation, or other misconduct and the conduct complained of prevented the losing party  
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1 from fully and fairly presenting the defense.” De Saracho v. Custom Food Mach., Inc., 206 F.3d  
2 874, 880 (9th Cir. 2000).

3 Mr. Mayes has not met this standard. He presents no evidence that Amazon failed to  
4 preserve crucial evidence in his case, or that the evidence in fact exists. Instead, his Motion and  
5 Reply consist entirely of allegations and argument without particularized facts demonstrating any  
6 misconduct. (Dkt. Nos. 102, 104.) Further, because Mr. Mayes has previously briefed this issue  
7 fifteen times, the Court finds that he has had the opportunity to fully and fairly present his case.  
8 De Saracho, 206 F.3d at 880.

9 **Conclusion**

10 Mr. Mayes’ Motion for relief from Judgment (Dkt. No. 102) is therefore DENIED.

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12 The clerk is ordered to provide copies of this order to Plaintiff and all counsel.

13 Dated February 19, 2020.

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16 Marsha J. Pechman  
17 United States District Judge  
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